

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO

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United States of America

Plaintiff,

vs.

Da Nico D. Geter,

Defendant.

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Case No. 5:18-cr-00021

ORDER

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

On March 23, 2018, Defendant Da Nico D. Geter pleaded guilty to possession of a controlled substance with the intent to distribute and possession of a firearm in furtherance of a drug trafficking crime, in violation of 21 U.S.C. § 841(a)(1) and 18 U.S.C. § 924(c)(1)(A) respectively.<sup>1</sup> On June 7, 2018, this Court sentenced Geter to 300 months incarceration and ten years of supervised release.<sup>2</sup>

On July 6, 2018, Geter, through his prior counsel, filed an untimely notice of appeal.<sup>3</sup> Counsel represented that the filing was untimely due to his being out of the country and miscommunications within his office.<sup>4</sup>

Due to a filing error, this Court did not transger the notice of the appeal to the Sixth Circuit until August 22, 2019.<sup>5</sup>

Geter now seeks an extension of time under Federal Rule of Appellate Procedure

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<sup>1</sup> Doc. [27](#).

<sup>2</sup> Doc. [38](#).

<sup>3</sup> Doc. [59](#).

<sup>4</sup> [Response to Court's Order Dated October 2, 2019; Motion to Remand](#) at 2-3, *U.S. v. Geter*, No. 19-3806 (6th Cir. Dec. 4, 2019), ECF No. 23.

<sup>5</sup> Doc. [74](#) at 1.

4(b)(4), which authorizes a district court to extend the deadline for filing a notice of appeal, for up to 30 days, if the court finds “excusable neglect or good cause.” Such an extension would make his original notice of appeal timely.<sup>6</sup>

“A district court has jurisdiction to excuse delay only where a notice of appeal has actually been filed within the 30-day period following the expiration of the regular appeal time.”<sup>7</sup> Geter’s notice of appeal was filed fifteen days after the deadline, so it was within the 30-day period.<sup>8</sup>

Given the series of errors committed in the filing of Defendant Geter’s appeal, the Court finds that good cause exists to grant Defendant’s request for an extension of the deadline to file an appeal. As Defendant’s notice of appeal was within the 30-day extension period, the appeal should be considered timely filed.

For the foregoing reasons, the Court grants an extension of time to file the notice of appeal and deems Defendant’s notice of appeal to be timely.

IT IS SO ORDERED.

Dated: February 12, 2020

*s/ James S. Gwin*  
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JAMES S. GWIN  
UNITED STATES DISTRICT JUDGE

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<sup>6</sup> The Government does not oppose the extension. Doc. [75](#).

<sup>7</sup> *U.S. v. Hoyer*, 548 F.2d 1271, 1273 (6th Cir. 1977).

<sup>8</sup> Doc. [74](#) at 2.